

HOUSE BILL No. 2088

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-31-6; IC 4-33-8.5-2; IC 9-24-2-3; IC 9-25-6-19; IC 25-1-1.2-7; IC 27-1-15.5-21; IC 27-10-3; IC 31-36; IC 34-30-2-134.5; IC 35-42-3-4.

Synopsis: Investigation of missing children reports. Requires a law enforcement agency to: (1) immediately investigate (instead of waiting up to 24 hours) a report of a missing child who is missing in alleged violation of a child custody or visitation court order; (2) forward the case to the prosecuting attorney within 24 hours; and (3) arrest persons in violation of the court order. Provides immunity from civil liability for law enforcement officers and agencies for the good faith exercise of their duties in this regard. Increases the penalty for interference with custody from a Class C or Class B misdemeanor to a Class C or D felony. Requires a court to: (1) impose against a person convicted of interference with custody certain costs incurred by the parent or guardian of the missing child; (2) order the person convicted of the offense to immediately return the child; and (3) order the suspension or denial of the person's professional license, driver's license, gaming license, or license as an insurance agent, a bail agent, or a recovery agent.

Effective: July 1, 1999.

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January 27, 1999, read first time and referred to Committee on Courts and Criminal Code.



Introduced

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

HOUSE BILL No. 2088

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 4-31-6-6.5 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6.5. The commission
3 shall deny
4 (1) a license or
5 (2) the renewal of a license
6 issued under this chapter to a person who is the subject of an order
7 issued by a court under:
8 (1) IC 31-14-12-6 or IC 31-16-12-9 (or IC 31-1-11.5-13(l) or
9 IC 31-6-6.1-16(l) before their repeal) **as a result of a child**
10 **support delinquency; or**
11 **(2) IC 35-42-3-4(g) as a result of a conviction for interference**
12 **with custody.**
13 SECTION 2. IC 4-31-6-10 IS AMENDED TO READ AS
14 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 10. (a) Upon receiving
15 an order of a court issued under ~~IC 13-14-12-6~~ **IC 31-14-12-6** or

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IC 31-16-12-9 (or IC 31-1-11.5-13(l) or IC 31-6-6.1-16(l) before their repeal) **as a result of a child support delinquency or an order issued under IC 35-42-3-4(g) as a result of a conviction for interference with custody**, the commission shall:

(1) suspend a license issued under this chapter to any person who is the subject of the order; and

(2) promptly mail a notice to the last known address of the person who is the subject of the order, stating the following:

(A) That the person's license is suspended beginning five (5) business days after the date the notice is mailed, and that the suspension will terminate not earlier than ten (10) business days after the commission receives an order allowing reinstatement from the court that issued the suspension order.

(B) That the person has the right to petition for reinstatement of a license issued under this chapter to the court that issued the order for suspension.

(b) The commission shall not reinstate a license suspended under subsection (a) until the commission receives an order allowing reinstatement from the court that issued the order for suspension.

SECTION 3. IC 4-33-8.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) Upon receiving an order of a court issued under IC 31-14-12-6 or IC 31-16-12-9 (or IC 31-1-11.5-13(l) or IC 31-6-6.1-16(l) before their repeal) **as a result of a child support delinquency or an order issued under IC 35-42-3-4(g) as a result of a conviction for interference with custody**, the commission shall:

(1) suspend a license issued under this article to a person who is the subject of the order; and

(2) promptly mail a notice to the last known address of the person who is the subject of the order, stating the following:

(A) That the person's license is suspended beginning five (5) business days after the date the notice is mailed, and that the suspension will terminate not earlier than ten (10) business days after the commission receives an order allowing reinstatement from the court that issued the suspension order.

(B) That the person has the right to petition for reinstatement of a license issued under this chapter to the court that issued the order for suspension.

(b) The commission shall not reinstate a license suspended under subsection (a) until the commission receives an order allowing reinstatement from the court that issued the order for suspension.

SECTION 4. IC 9-24-2-3 IS AMENDED TO READ AS FOLLOWS



[EFFECTIVE JULY 1, 1999]: Sec. 3. (a) The bureau may not issue a license or permit to the following individuals:

(1) An individual whose license issued under Indiana law to operate a motor vehicle as an operator, a chauffeur, or a public passenger chauffeur has been suspended, during the period for which the license was suspended, or to an individual whose license has been revoked, until the time the bureau is authorized under Indiana law to issue the individual a new license.

(2) An individual whose learner's permit has been suspended or revoked until the time the bureau is authorized under Indiana law to issue the individual a new permit.

(3) An individual who, in the opinion of the bureau, is afflicted with or suffering from a physical or mental disability or disease that prevents the individual from exercising reasonable and ordinary control over a motor vehicle while operating the vehicle upon the public highways.

(4) An individual who is unable to understand highway warnings or direction signs written in the English language.

(5) An individual who is required under this chapter to take an examination unless the person successfully passes the examination.

(6) An individual who is required under IC 9-25 to deposit proof of financial responsibility and who has not deposited that proof.

(7) An individual when the bureau has good cause to believe that the operation of a motor vehicle on a public highway of Indiana by the individual would be inimical to public safety or welfare.

(8) An individual who is the subject of an order issued by:

(A) a court under:

(i) IC 31-14-12-4 or IC 31-16-12-7 (or IC 31-1-11.5-13 or IC 31-6-6.1-16 before their repeal) **as a result of a child support delinquency; or**

(ii) **IC 35-42-3-4(g) as a result of a conviction for interference with custody; or**

(B) the Title IV-D agency;

ordering that a driving license or permit not be issued to the individual.

(b) An individual subject to epileptic seizures may not be denied a license under this section if the individual presents a statement from a licensed physician that the individual is under medication and is free from seizures while under medication.

SECTION 5. IC 9-25-6-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 19. (a) The bureau



shall, upon receiving an order of a court issued under IC 31-14-12-4 or IC 31-16-12-7 (or IC 31-1-11.5-13(j) or IC 31-6-6.1-16(j) before their repeal) **as a result of a child support delinquency or an order issued under IC 35-42-3-4(g) as a result of a conviction for interference with custody**, suspend the driving license or permit of the person who is the subject of the order.

(b) The bureau may not reinstate a driving license or permit suspended under this section until the bureau receives an order allowing reinstatement from the court that issued the order for suspension.

(c) Upon receiving an order for suspension under subsection (a), the bureau shall promptly mail a notice to the last known address of the person who is the subject of the order, stating the following:

(1) That the person's driving privileges are suspended, beginning five (5) business days after the date the notice is mailed, and that the suspension will terminate ten (10) business days after the bureau receives an order allowing reinstatement from the court that issued the suspension order.

(2) That the person has the right to petition for reinstatement of driving privileges to the court that issued the order for suspension.

(3) That the person may be granted a restricted driving permit under IC 9-24-15-6.7 if the person can prove that public transportation is unavailable for travel by the person:

(A) to and from the person's regular place of employment;

(B) in the course of the person's regular employment;

(C) to and from the person's place of worship; or

(D) to participate in visitation with the petitioner's children consistent with a court order granting visitation.

(d) Unless a person whose driving license or permit is suspended under this section has been issued a restricted driving permit under IC 9-24-15 as a result of a suspension under this section, a person who operates a motor vehicle in violation of the section commits a Class A infraction.

SECTION 6. IC 25-1-1.2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7. (a) Upon receiving an order of a court issued under IC 31-14-12-5 or IC 31-16-12-8 (or IC 31-1-11.5-13(k) or IC 31-6-6.1-16(k) before their repeal) **as a result of a child support delinquency or an order issued under IC 35-42-3-4(g) as a result of a conviction for interference with custody**, the board shall:

(1) suspend the license of the practitioner; or

(2) deny the application of the applicant;



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1 who is the subject of the order.

2 (b) Upon receiving an order of a court issued under IC 31-14-12-5
3 or IC 31-16-12-8 (or IC 31-1-11.5-13(k) or IC 31-6-6.1-16(k) before
4 their repeal) **as a result of a child support delinquency or an order**
5 **issued under IC 35-42-3-4(g) as a result of a conviction for**
6 **interference with custody**, the board shall promptly mail a notice to
7 the last known address of the person who is the subject of the order,
8 stating the following:

9 (1) That the practitioner's license has been suspended, beginning
10 five (5) business days after the date the notice is mailed, and that
11 the suspension will terminate ten (10) business days after the
12 board receives an order allowing reinstatement from the court that
13 issued the suspension order.

14 (2) That the practitioner has the right to petition for reinstatement
15 of the practitioner's license to the court that issued the order for
16 suspension.

17 (c) The board may not reinstate a license suspended under this
18 section until the board receives an order allowing reinstatement from
19 the court that issued the order for suspension.

20 SECTION 7. IC 27-1-15.5-21 IS AMENDED TO READ AS
21 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 21. (a) Upon receiving
22 an order of a court issued under IC 31-14-12-7 or IC 31-16-12-10 (or
23 IC 31-1-11.5-13(m) or IC 31-6-6.1-16(m) before their repeal) **as a**
24 **result of a child support delinquency or an order issued under**
25 **IC 35-42-3-4(g) as a result of a conviction for interference with**
26 **custody**, the commissioner shall:

27 (1) suspend a license issued under this chapter to the person who
28 is the subject of the order; and

29 (2) promptly mail a notice to the last known address of the person
30 who is the subject of the order, stating the following:

31 (A) That the person's license is suspended beginning five (5)
32 business days after the date the notice is mailed, and that the
33 suspension will terminate not earlier than ten (10) business
34 days after the commissioner receives an order allowing
35 reinstatement from the court that issued the suspension order.

36 (B) That the person has the right to petition for reinstatement
37 of a license issued under this chapter to the court that issued
38 the order for suspension.

39 (b) The commissioner shall not reinstate a license suspended under
40 subsection (a) until the commissioner receives an order allowing
41 reinstatement from the court that issued the order for suspension.

42 SECTION 8. IC 27-10-3-8 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 8. (a) The commissioner shall deny, suspend, revoke, or refuse to renew any license issued under this article for any of the following causes:

(1) Any cause for which issuance of the license could have been refused had it then existed and been known to the commissioner.

(2) Violation of any laws of this state in the course of dealings under any license issued the licensee by the commissioner.

(3) Material misstatement, misrepresentation, or fraud in obtaining the license.

(4) Misappropriation, conversion, or unlawful withholding of money belonging to insurers or others and received in the conduct of business under any license issued to the licensee by the commissioner.

(5) Fraudulent or dishonest practices in the conduct of business under any license issued to the licensee by the commissioner.

(6) Willful failure to comply with or willful violation of any proper order or rule of the commissioner.

(7) When, in the judgment of the commissioner, the licensee has, in the conduct of affairs under the license, demonstrated:

(A) incompetency or untrustworthiness;

(B) conduct or practices rendering the licensee unfit to carry on the bail bond business or making the licensee's continuance in such business detrimental to the public interest;

(C) that the licensee is no longer in good faith carrying on the bail bond business; or

(D) that the licensee is guilty of rebating, or offering to rebate, or unlawfully dividing, or offering to divide, the licensee's commissions in the case of limited surety agents;

and for such reasons is found by the commissioner to be a source of detriment, injury, or loss to the public.

(8) The listing of the name of the applicant or licensee on the most recent tax warrant list supplied to the commissioner by the department of state revenue.

(b) The commissioner shall refuse to

(1) issue a license or

(2) renew a license issued

under this chapter to a person who is the subject of an order issued by a court under:

(1) IC 31-14-12-7 or IC 31-16-12-10 (or IC 31-1-11.5-13(m) or IC 31-6-6.1-16(m) before their repeal) **as a result of a child support delinquency; or**

(2) IC 35-42-3-4(g) **as a result of a conviction for interference**



1 **with custody.**

2 (c) The commissioner may also levy a civil penalty of not more than
3 ten thousand dollars (\$10,000) for any of the causes listed in subsection
4 (a). Any civil penalty levied under this subsection may be enforced in
5 the same manner as a civil judgment.

6 (d) When a person who holds a license under this chapter enters a
7 plea of guilty to a disqualifying offense, the commissioner, immediately
8 upon the court's acceptance of the plea, shall revoke the person's
9 license. The commissioner shall revoke the license of any person who
10 is convicted of a disqualifying offense immediately upon conviction.
11 The pending of sentencing or the pending of an appeal of a conviction
12 of a disqualifying offense does not stay the revocation of a license
13 under this subsection. A person convicted of a felony is not eligible to
14 reapply for a license until ten (10) years from the date of conviction or
15 release from imprisonment, parole, or probation, whichever is later. A
16 person convicted of a misdemeanor disqualifying offense is not eligible
17 to reapply for a license until five (5) years from the date of conviction
18 or release from imprisonment, parole, or probation, whichever is later.

19 **SECTION 9. IC 27-10-3-19 IS AMENDED TO READ AS**
20 **FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 19. (a) Upon receiving**
21 **an order of a court issued under IC 31-14-12-7 or IC 31-16-12-10 (or**
22 **IC 31-1-11.5-13(m) or IC 31-6-6.1-16(m) before their repeal) as a**
23 **result of a child support delinquency or an order issued under**
24 **IC 35-42-3-4(g) as a result of a conviction for interference with**
25 **custody, the commissioner shall:**

26 (1) suspend a license issued under this chapter to any person who
27 is the subject of the order; and

28 (2) promptly mail a notice to the last known address of the person
29 who is the subject of the order, stating the following:

30 (A) That the person's license is suspended beginning five (5)
31 business days after the date the notice is mailed, and that the
32 suspension will terminate not earlier than ten (10) business
33 days after the commissioner receives an order allowing
34 reinstatement from the court that issued the suspension order.

35 (B) That the person has the right to petition for reinstatement
36 of a license issued under this chapter to the court that issued
37 the order for suspension.

38 (b) The commissioner shall not reinstate a license suspended under
39 subsection (a) until the commissioner receives an order allowing
40 reinstatement from the court that issued the order for suspension.

41 **SECTION 10. IC 31-36-1-2 IS AMENDED TO READ AS**
42 **FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) Except as**



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provided by subsection (b), the law enforcement agency shall prepare the report required by section 1 of this chapter as soon as practicable, but not later than five (5) hours after the law enforcement agency received the notification about a missing child. However, a law enforcement agency is not required to prepare the report required by section 1 of this chapter earlier than twenty-four (24) hours after the law enforcement agency received the notification about a missing child if:

- (1) the law enforcement agency received a previous, unrelated notification that the child was missing; and
- (2) the law enforcement agency has reason to believe that the child is missing because the child has committed a delinquent act under IC 31-37-2-2.

(b) The law enforcement agency shall prepare the report required by section 1 of this chapter immediately after receiving the notification about a missing child if the notification involves an alleged violation of a court order.

SECTION 11. IC 31-36-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. **(a) Except as provided by subsection (b),** a law enforcement agency shall begin an investigation concerning ~~the a~~ missing child not later than twenty-four (24) hours after receiving notification that ~~the a~~ child is missing.

(b) A law enforcement agency shall immediately begin an investigation of a report of a missing child if the child is missing in alleged violation of a child custody or visitation order issued by a court.

SECTION 12. IC 31-36-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. A law enforcement agency involved in the investigation of a missing child shall do the following:

- (1) Update the initial report filed by the agency that received notification of the missing child upon the discovery of new information concerning the investigation.
- (2) Forward the updated report to the agencies and organizations listed in IC 31-36-1-3.
- (3) Search the National Crime Information Center's Wanted Person File for reports of arrest warrants issued for persons who allegedly abducted or unlawfully retained children and compare these reports to the missing child's National Crime Information Center's Missing Person File.
- (4) Notify all law enforcement agencies involved in the investigation, the Indiana clearinghouse for information on



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missing children, and the National Crime Information Center when the missing child is located.

(5) If the child is missing in alleged violation of a child custody or visitation order issued by a court, forward the initial report filed by the agency that received the notification of the missing child and all updated reports to the prosecuting attorney of the county from which the child was reported missing within twenty-four (24) hours after the investigation begins.

SECTION 13. IC 31-36-2-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 2.5. A prosecuting attorney who receives a missing child report under section 2 of this chapter involving a child who is missing in alleged violation of a child custody or visitation order issued by a court shall immediately begin an investigation to determine whether to file criminal charges.**

SECTION 14. IC 31-36-2-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 5.5. (a) This section applies whenever a child is reported missing in alleged violation of a child custody or visitation order issued by a court.**

(b) A law enforcement officer shall arrest a person who is alleged to have violated a child custody or visitation order issued by a court if:

- (1) an arrest warrant has been issued for the person; or**
- (2) the officer has probable cause to believe that the person has committed or is committing such a violation.**

SECTION 15. IC 31-36-2-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 7. A law enforcement officer or agency may not be held liable in any civil action for any act or omission in the good faith exercise of the officer's or agency's duties under this article.**

SECTION 16. IC 34-30-2-134.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 134.5. IC 31-36-2-7 (Concerning civil actions against law enforcement officers or agencies for acts related to reporting and investigating cases of missing children.)**

SECTION 17. IC 35-42-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 4. (a) A person who knowingly or intentionally:**

- (1) removes another person who is less than eighteen (18) years**



1 of age to a place outside Indiana when the removal violates a
 2 child custody order of a court; or

3 (2) removes another person who is less than eighteen (18) years
 4 of age to a place outside Indiana and violates a child custody
 5 order of a court by failing to return the other person to Indiana;
 6 commits interference with custody, a Class D felony. However, the
 7 offense is a Class C felony if the other person is less than fourteen (14)
 8 years of age and is not the person's child, and a Class B felony if the
 9 offense is committed while armed with a deadly weapon or results in
 10 serious bodily injury to another person.

11 (b) A person who with the intent to deprive another person of
 12 custody or visitation rights:

13 (1) knowingly or intentionally takes and conceals; or

14 (2) knowingly or intentionally detains and conceals;

15 a person who is less than eighteen (18) years of age commits
 16 interference with custody, a Class ~~C misdemeanor~~ **D felony**. However,
 17 the offense is a Class ~~B misdemeanor~~ **C felony** if the taking and
 18 concealment, or the detention and concealment, is in violation of a
 19 court order.

20 (c) With respect to a violation of this section, a court may consider
 21 as a mitigating circumstance the accused person's return of the other
 22 person in accordance with the child custody order within seven (7) days
 23 after the removal.

24 (d) The offenses described in this section continue as long as the
 25 child is concealed or detained, or both.

26 (e) If a person is convicted of an offense under this section, a court
 27 ~~may~~ **shall** impose against the defendant reasonable costs incurred by
 28 a parent or guardian of the child because of the taking, detention, or
 29 concealment of the child.

30 (f) **If:**

31 (1) **a person is convicted of an offense under this section; and**

32 (2) **the child whose custody was interfered with has not been**
 33 **returned in accordance with the child custody order;**

34 **a court shall order the person to return the child in accordance**
 35 **with the child custody order immediately.**

36 (g) **If a person is convicted of an offense under this section, a**
 37 **court shall issue an order to do the following:**

38 (1) **The bureau of motor vehicles, ordering the bureau to:**

39 (A) **suspend the person's driving privileges until further**
 40 **order of the court, if the person holds a driver's license or**
 41 **permit on the date of the issuance of the order; or**

42 (B) **not issue a driver's license or permit to the person until**



- 1 further order of the court, if the person does not hold a
 2 driver's license or permit on the date of the issuance of the
 3 order.
- 4 (2) If the person is an applicant (as defined in IC 25-1-1.2-1),
 5 a practitioner (as defined in IC 25-1-1.2-6), an attorney, or a
 6 licensed teacher, the board (as defined in IC 25-1-1.2-2)
 7 regulating the practice of the person's profession, ordering
 8 the board to:
- 9 (A) suspend the person's license until further order of the
 10 court, if the person holds a license on the date of the
 11 issuance of the order; or
- 12 (B) not issue a license to the person until further order of
 13 the court, if the person does not hold a license on the date
 14 of the issuance of the order.
- 15 (3) If the person holds a license under IC 4-31-6, the Indiana
 16 horse racing commission, ordering the commission to:
- 17 (A) suspend the person's license until further order of the
 18 court, if the person holds a license on the date of the
 19 issuance of the order; or
- 20 (B) not issue a license to the person until further order of
 21 the court, if the person does not hold a license on the date
 22 of the issuance of the order.
- 23 (4) If the person holds a license under IC 4-33, the Indiana
 24 gaming commission, ordering the commission to suspend the
 25 person's license until further order of the court.
- 26 (5) If the person holds a license or is an applicant for a license
 27 under IC 27-1-15.5 or IC 27-10-3, the commissioner of the
 28 department of insurance, ordering the commissioner to:
- 29 (A) suspend the person's license until further order of the
 30 court, if the person holds a license on the date of the
 31 issuance of the order; or
- 32 (B) not issue a license to the person, if the person does not
 33 hold a license on the date of the issuance of the order.

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